

**IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL**

[Court's order whether the case is approved for reporting or
not under Chapter VIII Rule 32(2) (b)]

Description of the case

W.P. No. 4459 of 2001 (S/S)

Pradeep Kumar Nautiyal & 20 Ors.

.....Petitioners.

Versus

State & Ors.

...Respondents.

ALONG WITH OTHER CONNECTED WRIT PETITIONS

Approved for reporting

Not approved for reporting

Date of Decision: July 19, 2007

Initial of Judge

RESERVED

**IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL**

Category (A):-

B.Ed. from Maharshi Dayanand University, Rohtak, Haryana

1. W.P. No. 4459 of 2001 (S/S)
Pradeep Kumar Nautiyal & 20 Ors. Vs. State & Ors.
2. W.P. No. 190 of 2007 (S/S)
Smt. Amita Joshi Vs. State & Ors.
3. W.P. No. 189 of 2007 (S/S)
Km. Dolly Kaushik & Anr. Vs. State & Ors.
4. W.P. No. 188 of 2007 (S/S)
Smt. Simmi Tyagi & 20 Ors. Vs. State & Ors.
5. W.P. No. 204 of 2007 (S/S)
Smt. Saraswati Devi & 20 Ors. Vs. State & Ors.
6. W.P. No. 173 of 2007 (S/S)
Anil Prakash & Anr. Vs. State & Ors.
7. W.P. No. 172 of 2007 (S/S)
Brij Mohan Awasthi Vs. State & Ors.
8. W.P. No. 169 of 2007 (S/S)
Shyam Sunder Lal Vs. State & Ors.
9. W.P. No. 1261 of 2004 (S/S)
Shalini Sharma (Now Pandey) Vs. State & Ors.
10. W.P. No. 1066 of 2003 (S/S)
Rajeev Singh Vs. State & Ors.
11. W.P. No. 1001 of 2003 (S/S)
Smt. Sunita Rani & Anr. Vs. State & Ors.
12. W.P. No. 223 of 2007 (S/S)
Smt. Alpana Rani & Anr. Vs. State & Ors.
13. W.P. No. 222 of 2007 (S/S)
Upendra Joshi Vs. State & Ors.

14. W.P. No. 210 of 2007 (S/S)
Smt. Malti Sharma & 2 Ors. Vs. State & Ors.
15. W.P. No. 208 of 2007 (S/S)
Amrit Singh & Anr. Vs. State & Ors.
16. W.P. No. 205 2007 (S/S)
Lokendra Singh & 11 Ors. Vs. State & Ors.
17. W.P. No. 195 of 2007 (S/S)
Rajiv Singh & 5 Ors. Vs. State & Ors.
18. W.P. No. 194 of 2007 (S/S)
Chandra Prakash Mamgai Vs. State & Ors.
19. W.P. No. 192 of 2007 (S/S)
Smt. Nutan Rani Sharma & Anr. Vs. State & Ors.
20. W.P. No. 242 of 2007 (S/S)
Ms. Ansuiya Rawat & 3 Ors. Vs. State & Ors.
21. W.P. No. 229 of 2007 (S/S)
Udaveer Chand & 3 Ors. Vs. State & Ors.
22. W.P. No. 228 of 2007 (S/S)
Kaustubha Nand Bhagat Vs. State & Ors.
23. W.P. No. 227 of 2007 (S/S)
Smt. Madhu Rani Vs. State & Ors.
24. W.P. No. 225 of 2007 (S/S)
Deepak Pandey Vs. State & Ors.
25. W.P. No. 482 of 2007 (S/S)
Smt. Neelam Sharma (Bhatt) & Anr. Vs. State & Ors.
26. W.P. No. 481 of 2004 (S/S)
Km. Janki Devi Vs. State & Ors.
27. W.P. No. 256 of 2007 (S/S)
Smt. Anita Sharma Vs. State & Ors.
28. W.P. No. 245 of 2007 (S/S)
Atul Kumar Sharma & 5 Ors. Vs. State & Ors.

29. W.P. No. 246 of 2007 (S/S)
Jitendra Kumar Vs. State & Ors.
30. W.P. No. 576 of 2007 (S/S)
Km. Ranjana Vs. State & Ors.
31. W.P. No 573 of 2007 (S/S)
Smt. Sadhna Sharma Vs. State & Ors.
32. W.P. No. 547 of 2007 (S/S)
Smt. Prema Joshi & Anr. Vs. State & Ors.
33. W.P. No. 546 of 2007 (S/S)
Smt. Shikha Sharma & Anr. Vs. State & Ors.
34. W.P. No. 541 of 2007 (S/S)
Meena Kothari & Anr. Vs. State & Ors.
35. W.P. No. 517 of 2007 (S/S)
Adesh Kumar Vs. State & Ors.
36. W.P. No. 484 of 2007 (S/S)
Pradeep Dhiman Vs. State & Ors.
37. W.P. No. 398 of 2007 (S/S)
Narender Kumar Sharma Vs. State & Ors.
38. W.P. No. 397 of 2007 (S/S)
Smt. Mamta Vs. State & Ors.
39. W.P. No. 395 of 2007 (S/S)
Km. Nasreen Jahan Vs. State & Ors.
40. W.P. No. 394 of 2007 (S/S)
Paramjeet Singh Vs. State & Ors.
41. W.P. No. 359 of 2007 (S/S)
Smt. Aruna Mehndiratta Vs. State & Ors.
42. W.P. No. 358 of 2007 (S/S)
Km. Vandana Bhatt Vs. State & Ors.
43. W.P. No. 353 of 2007 (S/S)
Smt. Hema Joshi Vs. State & Ors.

44. W.P. No. 348 of 2007 (S/S)
Awtar Singh Vs. State & Ors.
45. W.P. No. 346 of 2007 (S/S)
Smt. Uma Rani Vs. State & Ors.
46. W.P. No. 337 2007 (S/S)
Devendra Kumar Vs. State & Ors.
47. W.P. No. 333 of 2007 (S/S)
Km. Nasreem Jahan Vs. State & Ors.
48. W.P. No. 335 of 2007 (S/S)
Nishi Kumar Vs. State & Ors.
49. W.P. No. 334 of 2007 (S/S)
Km. Mamta Harbola Vs. State & Ors.
50. W.P. No. 300 of 2007 (S/S)
Harish Prasad Bhatt Vs. State & Ors.
51. W.P. No. 296 of 2007 (S/S)
Ram Kumar & 2 Ors. Vs. State & Ors.
52. W.P. No. 291 of 2007 (S/S)
Kunta Devi & Anr. Vs. State & Ors.
53. W.P. No. 268 of 2007 (S/S)
Smt. Rudrani Sharma Vs. State & Ors.
54. W.P. No. 247 of 2007 (S/S)
Smt. Renu Rani Vs. State & Ors.
55. W.P. No. 234 of 2007 (S/S)
Smt. Meena Rani Vs. State & Ors.

Category (B):-

B.Ed. from Choudhary Charan Singh University, Meerut

1. W.P. No. 220 of 2007 (S/S)
Smt. Asha Aggarwal Vs. State & Ors.
2. W.P. No. 207 of 2007 (S/S)
Smt. Rashmika Kuri & 3 Ors. Vs. State & Ors.

3. W.P. No. 206 of 2007 (S/S)
Raghuraj Singh & 3 Ors. Vs. State & Ors.
4. W.P. No. 202 of 2007 (S/S)
Mithlesh Saini & Anr. Vs. State & Ors.
5. W.P. No. 200 of 2007 (S/S)
Ajay Singh Pundir & 37 Ors. Vs. State & Ors.
6. W.P. No. 196 of 2007 (S/S)
Brij Mohan Pahuja & 4 Ors. Vs. State & Ors.
7. W.P. No. 193 of 2007 (S/S)
Smt. Seema Kumari Vs. State & Ors.
8. W.P. No. 187 of 2007 (S/S)
Smt. Susheela Devi Vs. State & Ors.
9. W.P. No. 185 of 2007 (S/S)
Rohitash Kmar & Anr. Vs. State & Ors.
10. W.P. No. 166 of 2007 (S/S)
Smt. Priti Sharma Vs. State & Ors.
11. W.P. No. 479 of 2007 (S/S)
Seema Gupta Vs. State & Ors.
12. W.P. No. 209 of 2007 (S/S)
Ajay Kumar & 4 Ors. Vs. State & Ors.
13. W.P. No. 467 of 2007 (S/S)
Km. Rakhi Sharma Vs. State & Ors.
14. W.P. No. 400 of 2007 (S/S)
Pradeep Kumar Verma & Anr. Vs. State & Ors.
15. W.P. No. 357 of 2007 (S/S)
Smt. Anu Wadhava & 3 Ors. Vs. State & Ors.
16. W.P. No. 299 of 2007 (S/S)
Ajay Kumar Tyagi Vs. State & Ors.
17. W.P. No. 295 of 2007 (S/S)
Susheel Kumar & 2 Ors. Vs. State & Ors.

18. W.P. No. 294 of 2007 (S/S)
Mrs. Sangita Aggarwal Vs. State & Ors.
19. W.P. No. 260 of 2007 (S/S)
Bharti Bala Vs. State & Ors.
20. W.P. No. 594 of 2007 (S/S)
Gopal Krishan Sharma Vs. State & Ors.
21. W.P. No. 574 of 2007 (S/S)
Anil Kumar Vs. State & Ors.
22. W.P. No. 575 of 2007 (S/S)
Munesh Kumar Vs. State & Ors.

Category (C):-

Shiksha Visharad from Hindi Sahitya Sammelan, Allahabad

1. W.P. No. 614 of 2005 (S/S)
Rajendra Prasad Vs. State & Ors.
2. W.P. No. 95 of 2004 (S/S)
Pradeep Kumar & 17 Ors. Vs. State & Ors.
3. W.P. No. 480 of 2007 (S/S)
Mohan Chandra Vs. State & Ors.
4. W.P. No. 366 of 2007 (S/S)
Bhawan Pant Vs. State & Ors.
5. W.P. No. 363 of 2007 (S/S)
Smt. Geeta Bhandari Vs. State & Ors.
6. W.P. No. 544 of 2007 (S/S)
Neeraj Kumar Saxena Vs. State & Ors.
7. W.P. No. 543 of 2007 (S/S)
Smt. Sudha Mishra Vs. State & Ors.
8. W.P. No. 521 of 2007 (S/S)
Iqbal Ahmad & 2 Ors. Vs. State & Ors.
9. W.P. No. 520 of 2007 (S/S)
Smt. Kakesh Kushwaha Vs. State & Ors.

10. W.P. No. 519 of 2007 (S/S)
Smt. Deepa Joshi & 5 Ors. Vs. State & Ors.
11. W.P. No. 523 of 2007 (S/S)
Km. Naghma Parveen Vs. State & Ors.
12. W.P. No. 525 of 2007 (S/S)
Smt. Kiran Bala & 5 Ors. Vs. State & Ors.
13. W.P. No. 524 of 2007 (S/S)
Satyendra Kumar Singh Vs. State & Ors.
14. W.P. No. 522 of 2007 (S/S)
Gyanendra Kumar & 20 Ors. Vs. State & Ors.
15. W.P. No. 481 of 2007 (S/S)
Jaswant Singh & Anr. Vs. State & Ors.
16. W.P. No. 226 of 2007 (S/S)
Smt. Rekha Rani Sharma Vs. State & Ors.
17. W.P. No. 168 of 2007 (S/S)
Vibhor Singhal Vs. State & Ors.
18. W.P. No. 795 of 2005 (S/S)
Suneel Singh & Anr. Vs. State & Ors.
19. W.P. No. 773 of 2005 (S/S)
Mohd. Kamruddin & 5 Ors. Vs. State & Ors.
20. W.P. No. 707 of 2005 (S/S)
Devendra Kumar & Anr. Vs. State & Ors.
21. W.P. No. 684 of 2005 (S/S)
Bhuwan Chandra Pandey Vs. State & Ors.
22. W.P. No. 617 of 2005 (S/S)
Harish Singh Mehta Vs. State & Ors.

Category (D):-

Vyayam Ratna from Maharani Lakshmi Bai Vyayam College

1. W.P. No. 1176 of 2004 (S/S)
Laxmi Narayan Karnatak & 8 Ors. Vs. State & Ors.

2. W.P. No. 391 of 2007 (S/S)
Bhupendra Singh Basera & 3 Ors. Vs. State & Ors.
3. W.P. No. 230 of 2007 (S/S)
Gulab Singh Vs. State & Ors.
4. W.P. No. 68 of 2005 (S/S)
Badri Singh Vs. State & Ors.
5. W.P. No. 18 of 2005 (S/S)
Khimendra Singh Rautela Vs. State & Ors.
6. W.P. No. 1606 of 2004 (S/S)
Dewakar & Anr. Vs. State & Ors.
7. W.P. No. 1502 of 2004 (S/S)
Prakash Chandra Joshi Vs. State & Ors.
8. W.P. No. 1210 of 2004 (S/S)
Chatur Singh Mauni Vs. State & Ors.

Category (E):-

B.Ed. from IGNOU, New Delhi

1. W.P. No. 393 of 2007 (S/S)
Suresh Chandra & 13 Ors. Vs. State & Ors.
2. W.P. No. 244 of 2007 (S/S)
Km. Pushpa & 20 Ors. Vs. State & Ors.
3. W.P. No. 539 of 2007 (S/S)
Savita Garkhal Vs. State & Ors.
4. W.P. No. 485 of 2007 (S/S)
Neeraj Kumar Vs. State & Ors.
5. W.P. No. 175 of 2007 (S/S)
Rajesh Lohni Vs. State & Ors.
6. W.P. No. 243 of 2007 (S/S)
Devendra Kumar & 4 Ors. Vs. State & Ors.
7. W.P. No. 203 of 2007 (S/S)
Smt. Manju Singh Vs. State & Ors.

8. W.P. No. 201 of 2007 (S/S)
Madan Mohan Upreti Vs. State & Ors.
9. W.P. No. 198 of 2007 (S/S)
Pankaj Vs. State & Ors.

Category (F):-

B.Ed. from Jammu

1. W.P. No. 477 of 2007 (S/S)
Tejpal Singh Vs. State & Ors.
2. W.P. No. 466 of 2007 (S/S)
Jitendra Singh Vs. State & Ors.
3. W.P. No. 259 of 2007 (S/S)
Anup Singh Gusain & 6 Ors. Vs. State & Ors.
4. W.P. No. 548 of 2007 (S/S)
Bhupendra Gusain Vs. State & Ors.
5. W.P. No. 487 of 2007 (S/S)
Sanjay Purohit & 13 Ors. Vs. State & Ors.
6. W.P. No. 231 of 2007 (S/S)
Ameer Singh Bisht Vs. State & Ors.
7. W.P. No. 199 of 2007 (S/S)
Bhupendra Singh Negi & 20 Ors. Vs. State & Ors.

Category (G):-

B.Ed. from Kurukshetra University Haryana

1. W.P. No. 167 of 2007 (S/S)
Chandra Prakash Vs. State & Ors.
2. W.P. No. 197 of 2007 (S/S)
Smt. Sangeeta Devi Vs. State & Ors.
3. W.P. No. 542 of 2007 (S/S)
Smt. Ritu Singhal Vs. State & Ors.

Category (H):-

B.P.Ed. / C.P.Ed. Jiwaji University & Amarawati

1. W.P. No. 336 of 2007 (S/S)
Ameer Azam Vs. State & Ors.
2. W.P. No. 258 of 2007 (S/S)
Devendra Singh Vs. State & Ors.
3. W.P. No. 4806 of 2001 (S/S)
Darshan Singh Chauhan & 4 Ors. Vs. State & Ors.

Category (I):-

D.P.Ed. from Hanuman Vyayam Nagar Amarwati

1. W.P. No. 22 of 2005 (S/S)
Surya Prakash Vs. State & Ors.
2. W.P. No. 75 of 2004 (S/S)
Kundan Singh Pujara & 29 Ors. Vs. State & Ors.
3. W.P. No. 4701 of 2001 (S/S)
Rajiv Negi & 9 Ors. Vs. State & Ors.
4. W.P. No. 737 of 2005 (S/S)
Sunita Kala Koti Vs. State & Ors.

Category (J):-

Different Courses from different institutions

1. W.P. No. 1231 of 2004 (S/S)
Smt. Dropadi Pujara Vs. State & Ors.
2. W.P. No. 350 of 2007 (S/S)
Girish Joshi Vs. State & Ors.
3. W.P. No. 516 of 2007 (S/S)
Lokesh Kumar Vs. State and others.
4. W.P. No. 478 of 2007 (S/S)
Lokendra Singh Vs. State & Ors.

Sri Vipul Sharma, Sri B.D. Upadhyay, Sri S.S. Chaudhary, Smt. Seema Sirohi, Sri R.P. Nautiyal, Sri G.K. Verma, Sri S.K. Mandal, Sri Syed Nadim, Sri G.C. Kandpal, Sri K.N. Joshi, Sri B.S. Khanka, Sri Puran Singh Bisht, Sri Dinesh Gahatori, Sri H.S. Rawal, Sri Vikas Pande, Sri K.C. Tewari, Sri Nandan Arya,

Sri R.C. Tamta, Sri Rajendra Dobhal, Sri Khalil Ahmad, Sri T.A. Khan, Sri Manoj Tewari, Sri S.C. Bhatt, Sri Anil Dabral, Sir Rajendra Singh, Sri Pramod Tewari, Sri L.P. Singh, Sri Amish Agarwal, Sri B.S. Negi, Sri Sharad Sharma, Sri Mahavir S. Tyagi, Sri Subhash Upadhyay, Sri R.C. Tamta, Sri J.C. Pandey, Sir Vivek Shukla, Sri B.M. Pingal, Sri Bhuvnesh Joshi, Sri Lalit Tewari, Sri Narendra Bali, Sri Nagesh Agarwal, Sri Munesh Bhardwaj, Sri Kurban Ali, Sri M.C. Bansal, Sri Chetan Joshi, Sri Vinay Upadhyay, Sri D.S. Patni Sri Atul Bahuguna, Sri Navneet Kaushik, Sri K.S. Bora, Sri Pawan Kumar, Sri Vinod Nautiyal, Sri Vinod Sharma, Sri Pradeep Hariya, Sri M.S. Koranga, Sri I.P. Gairola, Sri Kishore Kumar, Sri Virendra Kaparwan, Ms. Sangeeta Miyan, Sri Lalit Belwal, Sri B.S. Parihar, Sri Mohd. Azim, Sri P.C. Bisht, Sri Tumul Nailwal, Sri Anil Bisht, Sri Ravi Babulkar, Sri Dinesh Chauhan, Sri Rakesh Thapliyal, Sri A.V. Pundeer, Sri Tanuj Semwal, Sri D.K. Sharma, Sri Lokendra Dobhal, Sri S.S. Adhikari, Sri I.S. Mehra, Sri N.S. Nayal, Smt. Farida Siddiqui, Sri Rajesh Joshi, Sri M. Dalakoti, learned counsel for petitioners.

Sri Paresh Tripathi, learned counsel for State of Uttarakhand
Sri Sudhir Singh, learned counsel for NCTE

Hon'ble M.M. Ghildiyal,

Heard learned counsel for the parties.

These writ petitions relates to the admission in Special BTC Training Course in the State of Uttarakhand. Petitioners in these writ petitions have obtained B.Ed. / LT / B.P.Ed. / D.P.Ed. / C. P. Ed. Degree / Certificate through correspondence from Maharishi Dayanand University, Rohtak; B.Ed. through correspondence from Ch. Charan Singh University, Meerut, Shiksha Visharad through correspondence from Hindi Sahitya Sammelan Allahabad; Vyayam Ratan from Maharani Laxmi Bai College, B.Ed. through correspondence from IGNOU, New Delhi; B.Ed. from Jammu University, B.Ed. through correspondence from Kurushetra University, Haryana, B.P.Ed. / C.P.Ed. through correspondence from Jivaji University and Amravati University, D.P.Ed. through correspondence from Hanuman Vyayam Nagar, Amrawati and B.Ed. degree from other different Institutions through correspondence. For the sake

of convenience, all these writ petitions can be divided into following categories.

Under category 'A' the petitioners have passed their B.Ed. degree through correspondence from Maharshi Dayanand University, Rohtak, Haryana. In 'B' Category are those petitioners who have obtained B.Ed. degree through correspondence from Chaudhary Charan Singh University, Meerut. Under 'C' category the petitioners are holder of Shiksha Visharad degree from Hindi Sahitya Sammelan Allahabad through correspondence. Under 'D' category the petitioners have obtained degree of Vyayam Ratan from Maharani Laxmi Bai Vyayam College, through correspondence. Under 'E' category the petitioners have obtained B.Ed degree from IGNOU, New Delhi, through correspondence. Under 'F' category the petitioners have obtained B.Ed degree from Jammu University. Under 'G' category the petitioners have obtained B.Ed degree from Kurushetra Universtiy, Haryana, through correspondence. Under 'H' category the petitioners have obtained B.P.Ed. / C.P.Ed. degree from Jiwaji University & Amarawati, through correspondence. Under 'I' category the petitioners have obtained D.P.Ed degree from Hanuman Vyayam Nagar, Amarwati, through correspondence. Under 'J' category the petitioners have obtained different degree / certificates from different Institutions through correspondence.

Petitioners have prayed that their candidatures may be considered by the respondents for selection in Special BTC training course to be conducted by Education Department of State of Uttarakhand. Some of the petitioners have also claimed benefit of Government Order dated 19.03.2005

providing relaxation in age. So far as question of relaxation in age is concerned this court has already decided this issue in writ petition no. 241 (S/S) of 2007 on 05.07.2007. Since the issue now in all these writ petitions is whether petitioners are entitled to be considered for Special BTC Training Course or not in view of the fact that they have obtained degree / certificate of B.Ed / LT / B.P.Ed / C.P.Ed. / D.P.Ed. / Shiksha Visharad / Vyayam Ratan through correspondence, even though courses in some of the Institutions are recognized by NCTE whereas in some cases, the courses being run by the Institutions are not recognized by NCTE as such, all writ petitions are being disposed of by a common judgment.

There has been acute shortage of teachers in the Basic Schools run by the State Government. The State Government finding it difficult to fulfil its obligation to provide the education to children, issued Order to provide Special BTC Training Course to the candidates for a period of six months, who have obtained degree or certificate in B. Ed / LT / B.P.Ed / C.P. Ed. / D.P.Ed and after successful training to treat them equivalent to regular BTC course for appointment in the Basic Schools run by the State Government.

Initially, this arrangement was made only for academic session 1997 – 98. Training was to be given in the District Institute of Education and Training (DIET) but since shortage of teachers in primary schools was increased every year this policy was extended time to time and Special BTC course are being conducted by the DIETs in pursuance to State Government order so that after the course is completed teachers may be appointed in Primary Schools. This matter

was taken up with The National Council of Teachers Education (hereinafter referred to as NCTE), which initially permitted the aforesaid course on the following conditions:

- i. The programme shall be run on full time basis and be of six months duration.*
- ii. The programme shall be conducted in recognized DIETs under the academic supervision and monitored by SCERT.*
- iii. The intake of candidates in this programme shall not be exceeded above 100 in one batch in a DIET.*
- iv. The Curriculum shall include educational theory, internship of three months.*
- v. SCERT shall develop a detailed Curriculum for the programme including scheme of examination. For this purpose, they may adopt curriculum framework developed by NCTE.*
- vi. SCERT shall be responsible for the conduct of final examination and issue all certificates to the successful candidates.*

After creation of State of Uttarakhand on 09.11.2000, the Department of Education in Uttarakhand was also facing with the problem of shortage of primary school teachers in primary schools run by the State Government. The Department of Education has decided to provide Special BTC Training Course to the candidates, who have obtained B.Ed., LT, B.P.Ed., C.P. Ed., D.P. Ed. degree / certificate, consequently, the Government issued an advertisement for Special BTC Training Course on 21.04.2001 which could be

finalized some times in 2004 – 05. Thereafter, on 13.06.2006 the Government issued further order for Special BTC Training Course. In Pursuance to the Government Order, advertisement was issued again by DIETs inviting applications for selection in Special BTC Training Course in DIETs.

In the State of Uttarakhand there are 13 districts. Out of 13 districts in 7 districts DIETs were already functioning, however, later on Government has established District Resources Centres in another 6 districts to perform the work of DIETs and thus, in all 13 districts of State of Uttarakhand, DIETs and District Resource Centres are functioning. The advertisement was issued and in pursuance to that advertisement, petitioners along with other candidates applied for selection for Special BTC Training Course.

Certain Clause of Government Order dated 13.06.2006, which was issued by Additional Secretary, State of Uttarakhand on 13.06.2006 are relevant for the purpose of adjudication of these writ petitions. These are as under:

दिनांक 13 जून, 2006

उपर्युक्त विषयक आपके पत्रांक बेसिक/ वि.बी.टी.सी./65274/2005-06 दिनांक 24.03.2006 पत्रांक बेसिक/ वि.बी.टी.सी./5469/2006-07 दिनांक 15.05.2006 पत्रांक बेसिक/ 5820 दिनांक 18.05.2006 एवं पत्रांक बेसिक/ 5804 /2006-07 दिनांक 18.05.2006 के क्रम में मुझे यह कहने का निर्देश हुआ है कि राज्य के ग्रामीणों क्षेत्रों के प्राथमिक विद्यालयों के सहायक अध्यापको की कमी को दृष्टिगत रखते हुए स्नातक योग्यता धारी प्रशिक्षित अभ्यर्थियों को सहायक अध्यापक के रूप में तैनात किये जाने से पूर्व विशिष्ट बीटीसी प्रशिक्षण संचालित करते हुए 06 माह का विशेष प्रशिक्षण दिये जाना निश्चित किया गया है। उक्त प्रशिक्षित अभ्यर्थियों के पूर्व अनुभव और प्रशिक्षण को

देखते हुए विशिष्ट बीटीसी की अवधि केवल 06 माह रखी गयी है। तदोपरान्त विशिष्ट बीटीसी प्रशिक्षण पाठ्यक्रम मूल्यांकन परीक्षा में उत्तीर्ण अभ्यर्थियों को बीटीसी सामान्य कोर्स में प्रशिक्षित अभ्यर्थियों को समतुल्य माना जायेगा तथा परिषदीय प्राथमिक विद्यालयों में सहायक अध्यापको के रिक्त पदों पर नियुक्ति हेतु अर्ह माना जायेगा।

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- (i) उत्तरांचल राज्य के मूल निवासी/स्थायी निवासी के सम्बन्ध में उत्तरांचल राज्य के कार्मिक अनुभाग द्वारा निर्गत शासनादेशानुसार पात्रता सुनिश्चित की जायेगी।
- (ii) अभ्यर्थी उत्तरांचल राज्य के अपने गृह जनपद में ही स्थित प्रशिक्षण संस्थान के लिये विशिष्ट चयन हेतु आवेदन कर सकेगा।
- (iii) अभ्यर्थी ने विशिष्ट बीटीसी चयन हेतु विज्ञप्ति प्रकाशित होने की तिथि से पूर्व भारत में विधि द्वारा स्थापित किसी मान्यता प्राप्त /यू. जी. सी. से मान्य महाविद्यालय/विद्यालय से स्नातक परीक्षा उत्तीर्ण कर ली हो तथा भारत में विधि द्वारा स्थापित किसी विश्वविद्यालय/किसी मान्यता प्राप्त प्रशिक्षण महाविद्यालय/संस्थान से एल.टी./बी. एड./बी.पी. एड./डी.पी.एड./सी.पी. एड. (सीपीएड वर्ष 1996-97 से पूर्व) तथा किसी मान्यता प्राप्त संस्कृत महाविद्यालय/विश्वविद्यालय से शिक्षाशास्त्री की उपाधि संस्थागत छात्र के रूप में प्राप्त की हो। प्रशिक्षण कार्यक्रम राष्ट्रीय अध्यापक शिक्षा परिषद (NCTE) से मान्यता प्राप्त होना अनिवार्य है।
- (iv) विज्ञप्ति की तिथि पर अभ्यर्थी के पास तद्सम्बन्धी शैक्षिक/प्रशिक्षण परीक्षाओं के अंकतालिका उपलब्ध है। यदि उक्त शैक्षिक एवं प्रशिक्षण परीक्षाओं के प्रमाण पत्र प्राप्त हो चुके हों, तो उन्हें भी उपलब्ध कराना होगा। प्रमाण पत्र प्राप्त न होने की दशा में सम्बन्धित संस्था / विश्वविद्यालय द्वारा प्रदत्त औपबन्धिक (Provisional) प्रमाण पत्र उपलब्ध कराया जाना अनिवार्य है।

- (v) अभ्यर्थी की आयु विज्ञप्ति प्रकाशित होने वाले वर्ष की प्रथम जुलाई को 21 वर्ष से कम तथा 40 वर्ष से अधिक न हो एवं अभ्यर्थी में ऐसी कोई शारीरिक, मानसिक अक्षमता न हो जिससे अध्यापन कार्य बाधित हो। न्यूनतम आयु सीमा में कोई छूट प्रदान नहीं की जायेगी।
- (vi) अनुसूचित जाति/जनजाति/पिछड़ी जाति/स्वतन्त्रता संग्राम सेनानियों के आश्रित/भूतपूर्व सैनिकों को उपरोक्त निर्धारित अधिकतम आयु सीमा में 05 वर्ष की छूट प्रदान अनुमन्य होगी। शारीरिक रूप से विकलांग (निःशक्त) व्यक्तियों को आयु सीमा में 10 वर्ष की अधिकतम छूट प्रदान की जायेगी।
- (vii) राजकीय माध्यमिक विद्यालयों में व्यवसायिक शिक्षा (जो अब समाप्त कर दी गयी है) के अन्तर्गत शासनादेश संख्या रिट 0/XXIV – 4/2006 शिक्षा अनुभाग-4 देहरादून दिनांक 23 जनवरी 2006 के क्रम में दिनांक 31 मार्च 2006 तक अविरल रूप से मानदेय पर कार्यरत स्नातक योग्यताधारी प्रशिक्षित व्यवसायिक शिक्षक/अनुदेशक तथा राज्य सरकार /उत्तरांचल सभी के लिए शिक्षा परिषद द्वारा संचालित योजना के अन्तर्गत कार्यरत प्रशिक्षित अर्ह शिक्षा मित्र/आचार्य/अनुदेशकों (शिक्षा गारण्टी केन्द्र/वैकल्पिक शिक्षा केन्द्र) को उनके प्रशिक्षण वर्ष के अनुक्रम में उनकी अविरल सेवा की अवधि के बराबर अधिकतम आयु सीमा
- अभ्यर्थी हेतु प्रशिक्षण योग्यता एल.टी./बी. एड./बी.पी.एड./डी.पी. एड. / सी.पी.एड. (सीपीएड वर्ष 1996 – 97 से पूर्व) तथा किसी मान्यता प्राप्त संस्कृत महाविद्यालय / विश्वविद्यालय से शिक्षाशास्त्री की उपाधि (संस्थागत छात्र के रूप में) होगी। सन्दर्भित प्रशिक्षण एन.सी.टी.ई. से मान्यता प्राप्त होना अनिवार्य होगा।

4- प्रशिक्षण हेतु अभ्यर्थियों का चयन

विशिष्ट बीटीसी प्रशिक्षण हेतु अभ्यर्थियों का चयन प्रशिक्षण के वर्षानुक्रम अर्थात् प्रशिक्षण वर्ष के क्रम में किया जायेगा एवं पूर्व वर्ष के प्रशिक्षित अभ्यर्थियों को वरीयता दी जायेगी। किसी एक वर्ष की वरीयता सूची (मेरिट लिस्ट) उस वर्ष के प्रशिक्षण प्राप्त अभ्यर्थियों द्वारा उनकी शैक्षिक योग्यता तथा पाठ्य सहगामी क्रियाकलापों एवं अन्य के लिये निर्धारित गुणांकों के योग के उपरान्त विज्ञापित पदों के सापेक्ष तैयार की गयी वरीयता सूची (मेरिट लिस्ट) के आधार पर किया जायेगा, जो निम्नवत् होगा :-

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विशिष्ट बीटीसी प्रशिक्षण के लिये अभ्यर्थियों का चयन जनपदीय समिति के माध्यम से किया जायेगा। जनपदीय समिति का गठन निम्नवत् होगा :-

जिला शिक्षा अधिकारी	— अध्यक्ष
प्राचार्य, जिला शिक्षा एवं प्रशिक्षण संस्थान	— सदस्य सचिव
अपर जिला शिक्षा अधिकारी (बेसिक)	— सदस्य
जिला शिक्षा अधिकारी द्वारा नामित अनुसूचित जाति/अनुसूचित जनजाति का अधिकारी	— सदस्य

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11- प्रशिक्षण हेतु अभ्यर्थियों का चयन

अभ्यर्थियों को सैद्धान्तिक एवं क्रियात्मक दोनों प्रकार के प्रशिक्षण किये जायेंगे। उक्त प्रशिक्षण हेतु 03 माह का सैद्धान्तिक तथा 03 माह का क्रियात्मक प्रशिक्षण दिया जायेगा। प्रशिक्षण के उपरान्त उत्तरांचल शिक्षा एवं परीक्षा परिषद, रामनगर, नैनीताल द्वारा नियमानुसार परीक्षा आयोजित की जायेगी तथा परीक्षाफल घोषित किया जायेगा।

12- प्रशिक्षण हेतु अभ्यर्थियों का चयन

सफलतापूर्वक प्रशिक्षण प्राप्त कर उत्तीर्ण बी.टी.सी. प्रशिक्षित अभ्यर्थियों की नियुक्ति उस जनपद के प्राथमिक विद्यालयों में सहायक अध्यापक के रिक्त पद उपलब्ध होने पर ही की जायेगी।

The aforesaid Government Order has clarified the necessity of Special BTC Training Course, duration of training, eligibility criteria for selection to Special BTC Training Course, Constitution of Selection Committee, Curriculum of training and thereafter, provision for appointment of trained candidates on the post of Assistant Teacher in Primary Schools.

Since the petitioners were not fulfilling the eligibility criteria, which was prescribed in the advertisement, they preferred these writ petitions with a prayer to direct the respondents to consider their candidatures. In most of the writ petitions, grievance of the petitioners in that they have passed B.Ed. from the Institution through correspondence. Though institutions are recognized and B.Ed. / Training courses being conducted by the Institutions are also recognized by NCTE, petitioners' candidatures are not being considered in view of the fact that they have obtained the degree / certificate of training through correspondence and as it is mentioned in the advertisement that the certificate / degree in training must have been obtained as an regular candidate.

The question that crops up for determination by the court in the aforesaid writ petitions is whether the petitioners who have applied for admission to Special BTC Training Course being conducted by different DIETs in the State of Uttarakhand are entitled to get any relief from the court even

though they did not fulfil the eligibility criteria as prescribed in the advertisement.

The submission of learned counsel for the petitioners is that the petitioners have obtained the degree / certificate from the Institution which is recognized by NCTE and there is no distinction between certificate / degree for training obtained as regular candidates or through correspondence courses. It is also contended that correspondence course is also recognized by NCTE and as such, respondents are not correct in rejecting candidatures of the petitioners on the ground that they have obtained degree / certificate through correspondence.

Learned counsel for the petitioners has submitted that the National Council for Teachers Education Act, 1993 (hereinafter referred to as Act No. 73 of 1993) came into force on 30.12.1993 and the National Council Teachers Education was established with a view to achieve planned and coordinated development of the Teachers Education System throughout the country. The regulation and proper maintenance of norms and standards in the teachers education system and for other matters connected therewith. Section (1) (2) of the aforesaid Act provides that it extent to the whole of India except in the State of Jammu and Kashmir.

It is contended by some of the petitioners that they have obtained B.Ed. degree as an regular student from Jammu University which is recognized by UGC yet their candidature is not being considered as the course is not recognized by the NCTE whereas The NCTE Act is not applicable in the State of Jammu & Kashmir.

Learned counsel for the petitioners in support of their argument have placed reliance on the judgment of Allahabad High Court in the case of Upendra Rai and others Vs. State of U.P. and others reported in 2000 (2) UPLBEC 1340 wherein the Allahabad High Court declared Circular Dated 11.08.1997 ultra vires holding that the classification made by the aforesaid Government Order was not having reasonable nexus. Para 6 and 7 of this judgement are quoted as under:

6. *In so far as the impugned advertisement is concerned, the classification therein between candidates who has passed requisite teacher training course from a recognized institution of Gorakhpur and those who have passed such course from a recognized institution outside Gorakhpur is arbitrary and violative of Art. 14 in that a territorial classification cannot be justified except on the basis of reasonable nexus between the classification and the object sought to be achieved by such classification.*

7. *As a result, of foregoing discussion the appeal succeeds and is allowed and the judgment under appeal passed by learned Single Judge is set aside and the impugned government circular and the advertisement in so far as they have the effect of excluding the candidature of candidates having obtained teachers education certificate from any Institution recognized under the NCTE Act are held be void being ultra vires the Act. 254 of the Constitution. The respondents are directed to consider candidature of the appellant on merits."*

The question decided by Allahabad High Court was quite different to that of present writ petitions. In that case, as is clear from paras 6 and 7, Government vide circular dated 11.08.1997 has made classification, excluding the candidates, who have obtained Teachers Training Certificates

from the Institutions recognized by the NCTE Act, 1993 on the basis of territory. The court has held that territorial classification cannot be justified except on the basis of reasonable nexus between classification and the object sought to be achieved by such classification. Here in the present case, the question is whether petitioners are having the qualification which is prescribed in the advertisement or not?

Counsel for the petitioners has relied upon the judgement of Hon'ble Supreme Court in the case of Suresh Pal and others Vs. State of Haryana and others. The facts of that case are quite different with the present case.

In the case of Suresh Pal, the facts were that certificate course in Physical Education from Sri Hanuman Vyayam Prasarak Mandal, Amrawati, Maharashtra was recognized by the Government of Haryana in 1975. Petitioner joined the course in the Institution. Haryana Government derecognized the certificate course on 09.01.1985. This order of derecognition was passed while petitioner was receiving instructions in the Institution. In these circumstances, the Apex Court has held that it would be unjust to tell the students that though at the time of their joining the course it was recognized yet they cannot be given benefit of such recognition and the certificates obtained by them would be futile because during the pendency of the course it was derecognised by the State Government.

This authority is also of no help to the petitioners in the facts of the case.

Learned counsel for the petitioners further submitted that equity is in favour of the petitioners as they have

obtained B.Ed / LT degree / certificate though through correspondence yet they are being excluded from selection to Special BTC Training Course.

Till new Act known as Uttarakhand Education Act, 2006 became applicable, U.P. Basic Education Act, 1972 (U.P. Act no. 24 of 1972 was adopted by State of Uttarakhand. Under this Act, the State Government had framed U.P. Basic Education (Teachers) Service Rules 1981 in exercise of power vested under section 19 (1) of Act no. 24 of 1972. Rules were applicable to Basic Schools, Junior Basic Schools, Nursery Schools run by State Government. Rules 8 (2) of the aforesaid Rules prescribes the essential qualification for appointment to the post referred in sub Sections III and IV of Clause (h) of Rule 5 for teaching Science Mathematics, Crafts or any language other than Hindi, Urdu, the qualification prescribed as under:

- (i) Bachelor degree from the University established by law in India or a degree recognized by the Government as equivalent thereto with Science, Mathematics, Crafts or particular language as the case may be one of the subject and
- (ii) Training qualification consisting of Basic Teachers Certificate, Hindustani Teacher Certificate, Junior Teachers Certificate, Certificate of Teaching or any other training course recognized by the Government as equivalent thereto.

There was no provision under U.P. Basic Education (Teachers) Service Rules 1981 for equating the training provision of BTC with qualification and training of B.Ed., C.P.Ed., B.P.Ed and D.P.Ed. for appointment as Assistant Teacher.

Basic Teacher Certificate is a course of two years and given to the teachers specially to trained them to teach small children in primary classes.

Learned counsel for the State Government has submitted that petitioners do not fulfil the eligibility criteria which is prescribed in advertisement and the eligibility criteria for selection to Special BTC Training Course prescribed in advertisement is in pursuance to the Government Order dated 13.06.2006 and in case, petitioners do not fulfil criteria, which is prescribed in the advertisement, petitioners should not have applied for Special BTC Training Course and they are not entitled for any relief from this court under Article 226 of the Constitution of India.

It is contended by the counsel for the respondents that long back in the State of U.P. BTC (correspondence) training was started for a period of three months / six months with a view imparting in-service training to untrained teachers already in employment. The practice of in-service training was to give benefit to the teachers who have already gained sufficient experience by teaching small students and whatever is the weaknesses of the teacher that was required to be removed by way of giving them short training through correspondence.

In my opinion the integral part of any training course must be practical training. Whether it is B.Ed. / LT or any other training course. Until or unless it includes practical the purpose of training would not fulfilled as in any teachers training course the method of teaching students is also to be seen which I thinks is not possible through correspondence course.

In absence of pleading as also in view of law laid down by Apex Court it is not possible for the court of take a definite view whether B.Ed. or any other degree obtained through correspondence should be treated at par with the degree obtained as an regular student or not, nor this court in these petitions is required to answer this question, in view of the law laid down by Apex Court. In *Rajendra Prasad Vs. Karnataka University*, AIR 1986 SC 1448, The Apex Court has held that the equivalence has to be decided by the university as it was not a matter of objective assessment and evaluation by the court. Relying on the judgement of Apex Court in the aforesaid case learned Single Judge of Allahabad High Court in the case of *Virendra Bahadur Singh and others Vs. State of U.P.* and other reported in 1995 (1) UPLBEC 628 has held in para 8 as under:

In *Rajendra Prasad Vs. Karnataka University*, AIR 1986 SC 1448, it was held that the equivalence has to be decided by the University as it was not a matter of objective assessment and evaluation by the court. In *J. Ranga Swami Vs. Government of Andhra Pradesh*, AIR 1990 SC 535, it was held by the Supreme Court that it was not for the court to consider the relevance of qualifications prescribed for various posts. Relying upon the principle laid down by the Supreme

Court in the aforesaid cases, I am of the view that it is not for this court to assess the comparative merits of BTC (Correspondence) Training qualification vis-à-vis the regular BTC training qualification specifically mentioned in Rule 8 of the Rules. In any case, BTC (correspondence) trained teachers cannot claim parity with unemployed BTC trained candidates. Treating them as equal would tantamount to treating unequals to equals. It may be observed that candidates appearing in BTC (correspondence) training examination were not required to attend theory and practical classes regularly whereas regular BTC training candidates have to attend theory and practical classes regularly. The object of BTC (correspondence) course, as pointed out earlier was to confer status of a trained teacher to an untrained teacher already in employment. In these circumstances, exclusion of BTC (Correspondence) trained teachers from the field of eligibility does not violate Articles 14 and 16 of the Constitution. The advertisement confining the field of eligibility of unemployed BTC trained candidates does not suffer from the vice of arbitrariness. In fact exclusion of BTC (correspondence) trained teachers from the field of eligibility for purposes of appointment to the posts of Assistant Masters and Assistant Mistress in Junior Basic Schools controlled and run by U.P. Board of Basic Education is a matter of policy decision and therefore, the decision to exclude persons already in employment from the field of consideration cannot be said to be arbitrary or violative of any constitutional or legal right. The petitioners, may if so advised, move the State Government for equating the training qualifications but so

long as it is not done, the petitioners are not entitled to claim parity with unemployed BTC trained candidates.

In the aforesaid case the question of equivalence between regular BTC and BTC (correspondence) was in issue and candidates having BTC (Correspondence) were claiming parity with regular BTC candidates for appointment as Assistant Teacher in Primary School. The ratio laid down by the Apex Court as well as by Allahabad High Court in the aforesaid judgement is fully applicable in the present case and consequently, I am of the view that the question of equivalence should not be decided by the court. In the circumstance, the only question which remain for consideration of court is that whether petitioners are entitled to any relief in spite of the fact that they do not have the qualification prescribed in the advertisement for being selected to Special BTC Training Course

After perusal of advertisement issued by different DIETs, it reveals that the eligibility criteria for candidates to apply for Special BTC Training Course is the same which is prescribed under Government Order dated 13.06.2006 According to this GO as well as advertisement, a candidate must be permanent resident of State of Uttarakhand. A candidate can apply for Special BTC Training Course in the concerned DIETs of the district to which he / she belongs. He / she must be graduate and has obtained degree of LT / B.Ed. / B.P.Ed. / D.P.Ed. / C.P.Ed. / Shikshs Shastri from the recognized Institution / University as a regular student. Further, the training degree / certificate must be recognized from NCTE.

It is a well settled law that equity cannot override the settled preposition of law. The Hon'ble Supreme Court in the case of P.M. Latha Vs. State of Kerala reported in 2003 (3) SCC 541 has held that "equity and law are twin brothers and law should be applied and interpreted equitably but equity cannot override written or settled law. The Division Bench forgot that in extending relief on equity to B.Ed. candidates, who are unqualified and yet allowed to compete and seek appointments contrary to the terms of the advertisement, it is not redressing the injustice caused to the appellants, who were TTC candidates and would have secured better position in rank list to get appointment against the available vacancy, had B.Ed. candidates been excluded from selection."

The Division Bench of this court in Special Appeal No. 90 of 2006 (Shailendra Singh and others Vs. State of Uttarakhand and others) decided on 18.12.2006 while deciding the issue whether the degree of Shiksha Visharad from Hindi Sahitya Sammelan, Allahabad should be treated or not equivalent to B.Ed for admission in Special BTC Training Course has held that Hindi Sahitya Sammelan, has not received recognition from NCTE till today.

The Division Bench in para 15 of the judgement has held as under:

"15. The power of the court under Article 226 of the Constitution is only limited to have judicial review of the matter. The court while exercising the jurisdiction under Article 226 of the Constitution cannot legislate the law. The court can only interpret the law and cannot legislate the law by adding a degree which has not been prescribed by the Government after considering all the aspects of the matter. The Hon'ble Apex Court under Article 142

of the Constitution can supplement the existing legal framework to do complete justice between the parties, whereas such power has not been conferred upon under Article 226 of the Constitution to the High Court. There is no challenge before us with regard to the rule and the advertisement issued thereunder if the rules and advertisement are not declared ultra virus to the Act, the court cannot supplement the provisions of the rule by adding a degree of its own which is not available in the rules or the advertisement."

It has been further held by the Division Bench of this court that the prescription of minimum educational qualification for admission to the course and recognition of the Certificate issued by Institution as equivalent to other certificate relates to the matters in the realm of policy decision to be taken by the State Government or the authority vested with power under any Statute. It is not for courts to determine whether a particular educational qualification possessed by a candidate should or should not be recognized or declared equivalent to the prescribed qualification in the case. It is not for the Courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority. The court must see the advertisement. The Court cannot go beyond the advertisement to investigate whether the act of the authorities concerned while publishing the advertisement was correct or not, especially when the advertisement is not under challenge. If the competent authority has decided only to take the candidates holding B.Ed. / L.T. for the special B.T.C. Training Course, the court cannot hold that a particular degree which is not included in the advertisement

should be treated equivalent to B.Ed. course. The court has to see the advertisement in between lines and not beyond that.

In the case of Kundan Lal Vs. State of Uttarakhand and others, Division Bench of this court in Special Appeal No. 127 of 2006 decided on 19.12.2006 has held that person holding C.P. Ed. from Sri Hanuman Vyayam Prasarak Mandal, Amrawati, Maharashtra after 1997 were not eligible for admission for Special BTC Training Course.

Some of the petitioners have obtained a degree of Vyayam Ratan from Maharani Laxmi Bai Vyayam College, Jhansi and they sought equivalence to the D.P.Ed.

This court cannot grant equivalence, it is for the Government to grant equivalence.

Similar view was taken by the Division Bench of this court in Special Appeal No. 47 of 2005 (Km. Usha Rawat and another Vs. State of Uttarakhand and others) decided on 29.07.2005.

The Hon'ble Apex Court in Civil Appeal No. 2450 of 2007 (Devendra Singh and others Vs. State of Uttarakhand and other) decided on 11.05.2007 has held that the process of selection of the candidates for Special BTC Training Course and the arrangement of training is required to be conducted in accordance with the guidelines, directions, conditions and restrictions incorporated thereunder.

Thus, from the aforesaid discussion it is clear that it is the State Government, who can recognize or derecognise any certificate issued by any Institution and the court should not interfere in these matters. It is further clear that selection to Special BTC Training Course must be conducted in

accordance with the guidelines, directions, conditions and restrictions incorporated thereunder.

The court has to see advertisement in between lines and not beyond that. It is admitted fact that on 13.06.2006 State of Uttarakhand issued necessary directions to be followed while making advertisement for selection on Special BTC Training Course and advertisement has been issued by different DIETs strictly in accordance with qualification prescribed under the aforesaid Government Order.

The petitioners have contended that NCTE Act, 1993 is not applicable to State of Jammu and Kashmir and as such, petitioners who have obtained degree from Jammu University, they should not be excluded from being selected on the ground that candidates having obtained B.Ed. degree which is not recognized by NCTE.

In case, petitioners have obtained B.Ed. degree as a regular student from Jammu University which is not within the purview of NCTE Act, they may approach the State Government for their inclusion in the selection process, however, if the degree has obtained by them through correspondence, they cannot claim any right to be considered for selection to Special BTC Training Course.

From the discussion above following principles emerged:

- i. Equivalence is matter of assessment not to be assessed by the court and exclusion for selection of a particular qualification does not violates Article 14 and 16 of the Constitution of India.

- ii. It is not for the court to consider the equivalence of qualification prescribed for various posts and assess the comparative merits with other having different qualification.
- iii. It is for the State and not the courts to recognize or derecognize the certificate obtained by the candidates from different institutions regarding training courses for teaching in Basic Schools.
- iv. The law should be applied and interpreted equitably but equity cannot override written or settled law.
- v. Grant of equivalence, power to recognize or derecognise certificates, fixing eligibility criteria for selection to any course are the matters in the realm of policy decision to be taken by the State Government.
- vi. The court must see the advertisement and cannot go beyond the advertisement to investigate the act of authority in respect of fixing eligibility criteria.
- vii. The process of selection of candidates for Special BTC Training Course and the arrangement of training is required to be conducted in accordance with the guidelines, directions, conditions and restrictions incorporated thereunder.

For the reasons recorded above writ petition under category 'A', 'B', 'E', 'G', Writ Petition No. 350 (S/S) of 2007 and writ Petition no. 516 of 2007 under category "J" are dismissed as the petitioners in aforesaid writ petition has obtained degree through correspondence / distance course and as per advertisement which was issued in pursuance of Government Policy dated 13.06.2006 candidature of only those applicant is to be considered who have obtained B.Ed. and equivalent degree as regular candidate and not through correspondence. Writ petition under Category "C" are dismissed as degree of Shiksha Visharad obtained from the Institution – Hindi Sahitya Sammelan, Allahabad which is not recognized. Writ petition under category "D" are dismissed as Uttarakhand Government has not granted equivalence Vyayam Ratam degree to B.Ed. under category F the petitioners candidature has not been considered as they have obtained B.Ed. degree from Jammu University which is not recognized under NCTE Act. As the Act is not applicable in the State of Jammu and Kashmir, the petitioners may approach the Government for change in policy decision. This court cannot direct the respondents to consider the candidature against the qualification prescribed in the advertisement. The writ petitions are disposed of accordingly. Under category "H" some of the petitioners have passed B.P.Ed. from Jiwaji University, Gwalior Madhya Pradesh and other have obtained C.P.Ed. degree from HVP Mandal Bhartiya Saririk Mahavidyalaya Amravati, Maharashtra. The petitioners could not demonstrate through document that the institutions are recognized by NCTE particularly for the year when they have received degree /

certificate from the Institution. Consequently, the writ petitions are dismissed. Similar is the position in respect of petitioners under category "I" wherein petitioners in W.P. no. 75 (S/S) of 2004 have passed B.P.Ed. from Hanuman Vyayam Nagar, Amrawati. Their candidature may be considered provided they have obtained the degree prior to 1996 – 97 and the same is recognized by the State of Uttarakhand. The petition is disposed of accordingly. Writ petition no. 4701 (S/S) of 2001, Writ petition no. 737 (S/S) of 2005, Writ petition no. 22 (S/S) of 2005 are dismissed as the petitioners could not demonstrate that the certificate issued by the Institutions Nasik Rao Tirpud College of Physical Education, Sadar, Nagpur and Directorate of Sports and Youth Services Amrawati, Maharashtra are recognized by the State as well as by NCTE. Under category "J" writ petition no. 1231 of 2004 is dismissed as petitioner could not show the equivalence granted by the Government to the degree at par with B.Ed.. In writ petition no. 478 (S/S) of 2007 petitioner has claimed relaxation in age. The question has already been decided by the court while dismissing the similar writ petition no. 241 (S/S) of 2007 on 05.07.2007. Consequently, this writ petition is also dismissed. No order as to costs.

Let a certified copy of this judgment and order be placed in the above connected writ petitions.

(M.M. Ghildiyal, J.)

July 19, 2007
SKSharma